

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

Retail Access Optimization Initiative

Docket No. N2011-1

**AMERICAN POSTAL WORKERS UNION, AFL-CIO,
MOTION TO COMPEL USPS TO RESPOND TO
INTERROGATORIES APWU/USPS-T1-1(d & e) AND T1-2
(August 29, 2011)**

On August 15, 2011, American Postal Workers Union, AFL-CIO ("APWU"), propounded interrogatories APWU/USPS-T1-1-5 to United States Postal Witness James Boldt. (USPS-T-1). On August 22, 2011 the Postal Service filed objections to interrogatories APWU/USPS-T1-1(d & e) and T1-2. Pursuant to Rule 26(d) of the Commission Rules of Practice, APWU hereby moves to compel the Postal Service to respond to interrogatories APWU/USPS-T1-1(d & e) and T1-2 as explained more fully below.

I. The Postal Service Should be Compelled to Respond to APWU/USPS-T1-1(d & e)

Interrogatory APWU/USPS-T1-(d & e) states:

Please refer to Library Reference USPS-LR-N2011-1/2. For each facility listed in this Library Reference please provide:

- d) the type (post office, CPU, approved shipper, stamps on consignment, etc.) and hours of operation of each of the "five postal retail and/or alternate access sites" of each facility listed in this Library Reference; and
- e) the driving distance and driving time between each facility listed in this Library Reference and its corresponding five "postal retail and/or alternate access sites."

The Postal Service objects to this interrogatory claiming it is overbroad and unduly burdensome. For the reasons explained below, both of these objections are without merit

and the Commission should direct the Postal Service to respond to this interrogatory as detailed below.

A. Interrogatory APWU/USPS-T1-1(d &e) Seeks Only Relevant and Important Information and Therefore, is Not Overbroad.

The Postal Service objects to this interrogatory because it is overbroad, claiming that “[p]roximity of a[sic] five nearby alternate (including postal) retail access points within a specified range is not a criterion applicable to the more than 2800 ‘low earned workload’ Post Offices or more than 260 facilities whose discontinuance studies have been carried over into the RAO Initiative for completion.” USPS Objections at 3. However, this rationale completely misses the point of these proceedings, which is to ensure that the RAO Initiative complies with the policies established in Title 39. Several policies are of particular importance and relevance to this docket, including Section 101 and Section 403. Section 101 provides in pertinent part:

(a) The United States Postal Service shall be operated as a basic and **fundamental service** provided to the people by the Government of the United States... . The Postal Service shall have as its basic function the **obligation to provide postal services to bind the Nation together** through the personal, educational, literary, and business correspondence of the people. **It shall provide prompt, reliable, and efficient services to patrons in all areas and shall render postal services to all communities. The costs of establishing and maintaining the Postal Service shall not be apportioned to impair the overall value of such service to the people.**

(b) The Postal Service **shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns** where post offices are not self-sustaining. **No small post office shall be closed solely for operating at a deficit**, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities.

39 U.S.C. § 101. [Emphasis added.] The relevant provisions of Section 403 require the Postal Service:

(b)(2) to provide types of mail service to meet the **needs** of the different categories of mail and mail users; and

(3) to establish and maintain postal facilities of such character and in such locations, **that postal patrons throughout the Nation will**, consistent with reasonable economies of postal operations, **have ready access to essential postal services.**

(c) In providing services ... the **Postal Service shall not ... make any undue or unreasonable discrimination among users of the mails, nor shall it grant any undue or unreasonable preferences to any such user.**

39 U.S.C. § 403. [Emphasis added.]

Given these policies, the type and location of alternate retail access points for all facilities, regardless of earned workload and revenue should be examined. Under Section 101(b) no small post office may be closed solely for operating at a deficit, yet the revenue and earned workload are the only criteria considered when selecting almost 3,000 facilities for study. It is also arguably discriminatory to select the majority of facilities for discontinuance study merely because they fall under an arbitrary revenue cut-off point. Thus, on its face, the RAO Initiative seems to violate the policies described in Sections 101 and 403 of Title 39.

However, providing the information requested in Interrogatory APWU/USPS-T1-1(d & e) will allow the Commission and intervening parties to assess whether, despite these flaws, the RAO Initiative will ensure that postal patrons across the Nation maintain ready access to essential postal services. This information also permits an analysis of any discriminatory impact that may or may not be present in the Initiative, regardless of the Postal Service's intent. Therefore, this information is highly relevant to the current proceedings and necessary to a complete analysis of the RAOI.

B. The Pronounced Value of the Information Requested in APWU/USPS-T1-1(d & e) Greatly Outweighs Any Claimed Burden

As explained above, the information sought in Interrogatory APWU/USPS-T1(d & e) is highly relevant and important to the evaluation of the RAOI's compliance with the policies of Title 39. The Postal Service provides a fundamental public service and it is highly likely that the RAO Initiative will impact service on a nationwide or substantial nationwide basis under Section 3661. Therefore, the requested information is data that the Postal Service should already be considering in the RAOI. The Postal Service should

know, at the beginning of this process, whether (and what type of) alternate access is available for all facilities under consideration. To do otherwise risks spending time, money and resources, not to mention the danger of creating public mistrust and resentment toward the Postal Service for threatening to reduce access to a fundamental public service, by studying facilities that have no reasonably accessible alternatives.

The Postal Service must have been aware of these risks, at least in part, because it did consider the availability of alternate retail facilities when it selected the stations, branches and retail annexes for review. For these facilities, the burden of providing the information requested in APWU/USPS-T1-1(d & e) should be minimal. These two categories of facilities were chosen, at least in part, on the basis of their proximity to five alternatives. It is our understanding the requirement of five alternatives within two miles for the station and branches and within a half-mile for retail annexes is the driving distance since the Postal Service has stated that surface driving distances will be used in the RAO Initiative. See Response of USPS to Interrogatory PR/USPS-T1-6(d), redirected from Witness Boldt (August 11, 2011). Therefore, the Postal Service should have readily available the driving distances between the 384 stations and branches and the 178 retail annexes and the corresponding “five postal retail and/or alternate access sites,” for each facility.

Furthermore, even if the Postal Service now claims that the RAOI does not rely on the surface driving distance to alternatives and that instead, it only looks at geographic coordinate (“as the crow flies”) distances for determining the facilities to study for discontinuance, driving distances to alternatives must still be provided. This information is necessary for the Commission to fulfill its obligation under Section 3661. Geographic coordinate distances, which are never greater than driving distances and in many cases are unrelated to driving distance and driving, are of limited value in this case. See Response of USPS Witness Boldt to NAPUS/USPS-T1-20 (August 15, 2011). Driving distance and driving time are metrics that more accurately reflect a postal patron’s reasonable ability to access alternate postal facilities, a critical component under review in this docket. In contrast, geographic coordinate distances are virtually irrelevant to whether postal patrons will maintain ready access to essential postal services, since they have no actual bearing on corresponding driving distance and time.

Nonetheless, we are sympathetic of the burden imposed on the Postal Service by this interrogatory. However, the information provided in this docket indicates that the Postal Service already collects the information sought by APWU/USPS-T1-1(d & e) and the Postal Service has a database that it currently uses to provide driving distances. See USPS Response to PR/USPS-T1-6(e), redirected from Witness Boldt (August 11, 2011); and Response of USPS Witness Boldt to PR/USPS-T1 3(b-c) (August 8, 2011). Moreover, the Postal Service regularly collects data on retail facilities, including hours of operations and stores it in a data warehouse and uses for other reporting obligations. However, cognizant of the burden and in the interest of time, but without waiving our right to compel the production of further information responsive to our request, the APWU is willing to narrow the scope of the interrogatory as follows:

- 1) For each of the 2825 Post Offices with low earned workload and total annual revenue less than \$27,500 listed in Library Reference USPS-LR-N2011-1/2, please provide:
 - (d) the type (post office, CPU, approved shipper, stamps on consignment, etc.) and hours of operation for the closest two postal retail and/or alternate access sites.
 - (e) the driving distance between each Post Office in this Library Reference and its corresponding closest two postal retail facilities and/or alternate access sites.
- 2) For the remaining 384 stations and branches and 178 retail annexes listed in Library Reference USPS-LR-N2011-1/2, please provide
 - (d) the type (post office, CPU, approved shipper, stamps on consignment, etc.) and hours of operation of each of the “five postal retail and/or alternate access sites” of each facility listed in this Library Reference; and
 - e) the driving distance and driving time between each facility listed in this Library Reference and its corresponding five “postal retail and/or alternate access sites.”

Further, APWU is willing to discuss with the Postal Service the production of this information in format that it already uses to avoid any unnecessary re-programming.

The information is essential to the Commission's review of the RAO. Without it, the Commission and participating parties cannot adequately assess whether the RAOI complies with the policies of Title 39 nor can specific recommendations to improve the process be offered. The burden the Postal Service may face in compiling this information may not be insignificant, but it is likely that the Postal Service has overstated the burden, at least with respect to the approximately 600 stations, branches and retail annexes for which the information requested should already be available. As for the approximate 2800 Post Offices under review, APWU has greatly narrowed the scope of its request to reduce any potential burden. The Commission should not validate an initiative designed to close postal retail facilities, resulting in reduced access to a fundamental public service, without evaluating critical the type of information required by APWU.

The requested information is highly relevant to the present inquiry, therefore, any burden is far outweighed by the value this information adds to the review of the RAO Initiative and should be provided as modified above.

II. The Postal Service Should be Compelled to Respond to APWU/USPS-T1-2

Interrogatory APWU/USPS-T1-2 states:

For each retail facility not selected for study under ROA please provide:

- a) the hours of operation;
- b) both the facility finance number and corresponding main office finance number, e.g., the finance number assigned to a station and the corresponding finance number for the main post office to which the station reports;
- c) the street address; and
- d) the revenue and expenses.

The Postal Service objects to this interrogatory as irrelevant and unduly burdensome. For the reasons explained below, these objections also lack merit and the Commission should direct the Postal Service to immediately provide a complete response to this interrogatory.

A. The Burden of Providing the Information Requested in APWU/USPS-T1-2 does not Outweigh its Importance to the Commission's Analysis of the RAOI

The Commission's role under Section 3661 is to provide advice on the RAOI and ensure that it complies with the policies of Title 39. This requires carefully balancing the operational needs and autonomy of the Postal Service with the public's need for and access to a vital public service. In fulfilling this important role, the Commission must not limit its examination to only the facilities that were chosen for discontinuance study. Those facilities that were excluded from study under the RAOI must also be examined. Under review in this docket are the goals, criteria and procedures of the RAOI, and the implementation and impact of the Initiative. None of these items can be adequately assessed regarding the policies of Title 39 without comparison to those facilities that were not selected for study. It is this comparison that enables the Commission to advise whether the procedures are adequately tailored to the proffered goals. Comparing the chosen facilities with those that were not selected is also vital to the analysis and determination of whether the RAOI is unduly or unreasonably discriminatory or if it evidences an undue or unreasonable preference for certain mailers under Section 403. Without the requested information, the Commission's advice would be incomplete and speculative thereby making it less efficacious for use by the Postal Service as it moves forward with the RAOI and resulting discontinuance studies. To ensure complete and meaningful advice, the Commission should compel the production of the information requested in APWU/USPS-T1-2.

The Postal Service claims that producing the information requested in APWU/USPS-T1-2 would be unduly burdensome. However, any burden imposed by this request is greatly outweighed by the importance of the information as demonstrated above. Furthermore, the bulk of the information requested, including the finance numbers, revenue and expenses, and street addresses of the excluded postal facilities, is information that the Postal Service maintains in the regular course of business. APWU is also willing to discuss with the Postal Service methods of providing the information requested in this interrogatory to limit any burden created by having to put

this information in another format. Therefore, the Postal Service should be compelled to immediately provide a complete response to interrogatory APWU/USPS-T1-2.

III. Conclusion

For the reasons explained above, the APWU respectfully request that the Commission grant this Motion to and order the Postal Service to immediately respond to APWU/USPS-T1-1(d & e), as modified, and APWU/USPS-T1-2.

Respectfully submitted,

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